

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4111 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and

MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

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2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

PATEL SHANTILAL RAMJIBHAI

Versus

STATE OF GUJARAT

Appearance:

MRS RANJAN B PATEL for Petitioner

MR PG DESAI, GOVERNMENT PLEADER for Respondents

No.1 & 2.

CORAM : MR.JUSTICE J.M.PANCHAL and

MR.JUSTICE M.H.KADRI

Date of decision: 25/01/99

ORAL JUDGEMENT

(Per : Panchal, J.)

Learned Counsel for the petitioner seeks
permission to delete names of respondents no.3 & 4 from
the present petition. In view of the averments made in

the petition and the reliefs claimed, permission as prayed for is granted.

Rule. Mr. P.G.Desai, learned Government Pleader waives service of notice of rule on behalf of respondents no.1 & 2. At the joint request of learned Counsel appearing for the parties, the petition is taken-up for final hearing today.

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside order dated December 1, 1995 passed by respondent no.2 by which prayer made by the petitioner to refer the matter to the Court for determination of compensation, is rejected on the ground that the petitioner did not supply better particulars of his land which was acquired. The petitioner has further prayed to direct respondent no.2 to make reference to the District Court, Vadodara for the purpose of determination of compensation.

From the facts pleaded in the petition, it is evident that the petitioner was owner of Block No.212 of village Fata, Taluka : Sankheda, District : Vadodara. The said land was acquired by the State Government for rehabilitation of oustees of Narmada Yojna. Mr. P.G. Desai, learned Government Pleader on instructions states that the Special Land Acquisition Officer, Unit-IV, Narmada Yojna, Narmada Bhavan, Vadodara, who is impleaded as respondent no.2 in the petition, has not made any award as contemplated by the provisions of the Land Acquisition Act, 1894 and, therefore, the prayer to direct respondent no.2 to refer the matter to District Court, Vadodara for determination of compensation should be rejected.

Heard the learned advocates. The record of the petition indicates that an application was submitted by the petitioner to respondent no.2 with a request to refer the matter to District Court, Vadodara for ascertaining appropriate market value of his land acquired. However, respondent no.2 addressed a letter dated December 1, 1995 to the learned advocate of the petitioner informing him that as better particulars of the land acquired were not furnished, prayer to refer the matter to Court for determination of compensation is rejected. The said communication is produced by the petitioner at Annexure-A to the petition. Admittedly, award has not been made by respondent no.2 and, therefore, respondent no.2 should not have communicated to the learned advocate of

petitioner that prayer to refer the matter to the Court for determination of compensation was rejected, as better particulars of the land were not furnished by the petitioner. Therefore, Annexure-A will have to be set aside. However, as award is not made by respondent no.2, prayer to direct the respondent no.2 to refer the matter to District Court, Vadodara for determination of compensation cannot be entertained and the said prayer is liable to be rejected.

For the foregoing reasons, the petition partly succeeds. Order dated December 1,1995 produced at Annexure-A to the petition, in so far as it relates to the petitioner, is hereby quashed and set aside. The prayer to direct the respondent no.2 to refer the matter to District Court, Vadodara for determination of compensation, is rejected. Rule is made absolute to the above extent only, with no order as to costs.

(Patel)